

MELLINGER, SANDERS & KARTZMAN, LLC

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Attorneys for Steven P. Kartzman, Chapter 7 Trustee



Order Filed on July 7, 2017 by
Clerk U.S. Bankruptcy Court
District of New Jersey

In re:

RASA KAPITANYUK and
MARK KAPITANIUK,

Debtor.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Chapter 7

Case No.: 16-34175 (JKS)

Honorable John K. Sherwood

**CONSENT ORDER DIRECTING TURNOVER OF PROPERTY OF
THE ESTATE TO THE TRUSTEE PURSUANT TO 11 U.S.C. § 542(a)**

The relief set forth on the following pages, numbered two (2) through four (4), is hereby

ORDERED.

DATED: July 7, 2017

A handwritten signature in dark ink, appearing to read "JK Sherwood", written over a horizontal line.

Honorable John K. Sherwood
United States Bankruptcy Court

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Debtor: Rasa Kapitanyuk and Mark Kapitaniuk

Case No.: 16-34175 (JKS)

Caption: Consent Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

THIS MATTER having been brought before the Court by Steven P. Kartzman, the court-appointed Chapter 7 Trustee (the “Trustee”), by and through counsel, Mellinger, Sanders & Kartzman, LLC, on application for the entry of a Consent Order directing turnover of property of the estate to the Trustee pursuant to 11 U.S.C. § 542(a) (the “Application”); and the Trustee and Rasa Kapitanyuk and Mark Kapitaniuk (the “Debtors”) having agreed to amicably resolve issues of turnover on the terms set forth herein, as appears from the signatures of counsel affixed hereto, it is hereby

ORDERED AS FOLLOWS:

1. The Debtors shall pay the sum of \$35,000 (the “Settlement Amount”) to the Trustee as follows:

- (a) The Debtors shall pay the sum of \$5,000 to the Trustee upon execution of this Consent Order (the “Initial Payment”); and
- (b) The Debtors shall pay the sum of \$1,000 per month for 30 months, beginning the first month following entry of the Consent Order (the “Monthly Payment”, and with the Initial Payment (the “Settlement Payments”).

2. To the extent that the Debtors fail to make the required Settlement Payments, the Trustee shall file a certification of default with the Court on notice to the Debtors. Should the Debtors fail to cure the default within ten (10) days of the filing of a certification of default:

- (a) The Court shall enter a non-dischargeable judgment against the Debtors in an amount 1.5 times the Settlement Amount, less payments made to the Trustee; and
- (b) Judgment shall be entered revoking the Debtors’ discharge pursuant to 11 U.S.C. § 727(d).

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Debtor: Rasa Kapitanyuk and Mark Kapitaniuk

Case No.: 16-34175 (JKS)

Caption: Consent Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

3. The Debtors having exhausted the exemption available under 11 U.S.C. § 522(d)(5), through the Settlement Amount and a credit against the Trustee's turnover demand, and as set forth in their initial and amended Schedule C, and shall not be allowed an exemption under 11 U.S.C. § 522(d)(5) against any monies received by the bankruptcy estate from the Settlement Payments.

4. The Debtors having exhausted the exemption available under 11 U.S.C. § 522(d)(6), through the Settlement Amount and a credit against the Trustee's turnover demand, and as set forth in their initial and amended Schedule C, and shall not be allowed an exemption under 11 U.S.C. § 522(d)(6) against any monies received by the bankruptcy estate from the Settlement Payments.

5. Upon receipt of the Settlement Amount in full, the Trustee shall abandon any claims by the estate to accounts receivable (earned income) and dental lab equipment owned by the Debtors.

6. The terms of this Consent Order are subject to the Court's approval and the issuance of a Notice of Settlement (the "Notice") and the following:

- (a) If no objection to the Notice is filed, the issuance and docketing of a Certification of No Objection by the Clerk of the Bankruptcy Court; or
- (b) if any objection to the Notice is filed, the overruling of any such objection by this Court.

In the event that an objection to the settlement is filed and sustained, the parties shall be restored to their pre-settlement positions.

7. The parties, and anyone who succeeds to their rights and responsibilities hereunder, including their successors and/or assigns, are bound by this Consent Order. This

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Debtor: Rasa Kapitanyuk and Mark Kapitaniuk

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Consent Order is made for the benefit of the parties and all who succeed to their rights and responsibilities.

8. The Bankruptcy Court shall retain exclusive jurisdiction to adjudicate all matters arising under or in connection with this Consent Order.

[Remainder of Page Intentionally Left Blank]

*The undersigned hereby consent to
the form and entry of the within Order:*

MELLINGER, SANDERS
& KARTZMAN, LLC
Attorneys for Trustee

TODD S. CUSHNER, ESQ.
*Attorneys for Rasa Kapitanyuk
and Mark Kapitaniuk, the Debtors*

By: /s/ Joseph R. Zapata, Jr.
JOSEPH R. ZAPATA, JR., ESQ.

By: /s/ Todd S. Cushner
TODD S. CUSHNER, ESQ.

Dated: June 22, 2017

Dated: June 21, 2017

Certificate of Notice Page 5 of 5
United States Bankruptcy Court
District of New Jersey

In re:
Rasa Kapitanyuk
Mark Kapitaniuk
Debtors

Case No. 16-34175-JKS
Chapter 7

CERTIFICATE OF NOTICE

District/off: 0312-2

User: admin
Form ID: pdf903

Page 1 of 1
Total Noticed: 1

Date Rcvd: Jul 07, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jul 09, 2017.
db/jdb Rasa Kapitanyuk, Mark Kapitaniuk, 35A West Stanover Ave, Randolph, NJ 07869

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jul 09, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on July 7, 2017 at the address(es) listed below:

Denise E. Carlon on behalf of Creditor Toyota Motor Credit Corporation
dcarlon@kmlawgroup.com, bkgroup@kmlawgroup.com
Joseph R Zapata, Jr. on behalf of Trustee Steven P. Kartzman jzapata@msklaw.net
Miriam Rosenblatt on behalf of Creditor Deutsche Bank National Trust Company
bkyecf@rasflaw.com, mrosenblatt@rasflaw.com
Steven P. Kartzman kartztee@optonline.net,
jzapata@msklaw.net;njl6@ecfcbis.com;ncorona@msklaw.net;angiea@msklaw.net
Todd S Cushner on behalf of Debtor Rasa Kapitanyuk todd@thegtcfirm.com,
amanda@thegtcfirm.com;dana@thegtcfirm.com;amerritt@thegtcfirm.com;jgiorgi@thegtcfirm.com
Todd S Cushner on behalf of Joint Debtor Mark Kapitaniuk todd@thegtcfirm.com,
amanda@thegtcfirm.com;dana@thegtcfirm.com;amerritt@thegtcfirm.com;jgiorgi@thegtcfirm.com
U.S. Trustee. USTPRegion03.NE.ECF@usdoj.gov

TOTAL: 7